

STATE OF MINNESOTA
DEPARTMENT OF COMMERCE
BULLETIN 2006-5

Issued this 6th day of September, 2006

TO: All Issuers of Individual Deferred Annuity Contracts in Minnesota
RE: Expiration of Transition Period for Revised Nonforfeiture Law for Annuities



GLENN WILSON
Commissioner of Commerce

The purpose of this bulletin is to remind companies of the recent changes in minimum nonforfeiture requirements for individual deferred annuities, and to provide notice that enforcement actions may be taken with regard to contracts that do not comply with the law as revised.

Minnesota Statutes, section 61A.245, the Standard Nonforfeiture Law for Individual Deferred Annuities, was amended effective August 1, 2003. This law applies to individual deferred fixed annuities and to fixed accounts in individual deferred variable annuities. The law provided a two-year transition period during which annuity contracts approved under the prior law could be issued.

The Department of Commerce (Department) provided notification of the changes and detailed information about filing requirements on the form checklist located on the Department's web site, www.commerce.state.mn.us. Due to the revisions in the law, companies have revised their contracts, and filed them for approval.

However, some companies appear to have recently issued contracts that were approved prior to August 1, 2003, and that provide surrender values that are less than the statutory minimums. All contracts that are issued after August 1, 2005 must have been approved under the current law. The Department may take enforcement action with regard to contracts that do not provide the minimum cash surrender values in the law.

The following contract provisions are often, but not always, associated with values below the legal minimums:

- ☞ A fixed maturity or annuitization date with no option for prior annuitization,
- ☞ A market-value adjustment, unless associated with a Modified Guaranteed Annuity that complies with Minnesota Rules, chapter 2751,
- ☞ Withdrawal charges that are higher than 9% of the contract value,

- ☞ Withdrawal charges that continue past the ninth policy year, or
- ☞ Guaranteed values below the legal minimum with a contractual provision that the company will provide withdrawal values meeting the nonforfeiture requirements, if greater.

Surrender charges based on length of time since each premium payment may produce values at or above the legal minimums if evaluated as though each payment is associated with a separate single-premium annuity. However, filings of such products must demonstrate that all purchasers will have a clear explanation of such surrender charges.

Any questions regarding this bulletin can be directed to Julia Philips, Life and Health Actuary, 651-296-8949 or julia.philips@state.mn.us.